

ATTACHMENT B

NATIONAL COMPETITION POLICY REVIEW

In response to the National Competition Policy (NCP) Review, COAG has agreed a new NCP reform agenda aimed at providing a supportive market and regulatory framework for productive investment in energy, transport and other export-oriented infrastructure, and its efficient use, by improving pricing and investment signals and establishing competitive markets. These will be progressed as part of the Competition stream of the National Reform Agenda. COAG also agreed with the NCP Review's recommendations on reducing the regulatory burden on business, these will be progressed as the 'deregulation' stream of the National Reform Agenda. The details of COAG's specific decisions are outlined below.

COMPETITION

Legislation Review

Decision 1.1

COAG agreed that:

- (a) all jurisdictions will recommit to the principles contained in the Competition Principles Agreement; and
- (b) State and Territory Governments will publish a new statement, prepared in consultation with local government, specifying the application of the principles to particular local government activities and functions.

Decision 1.2

Each jurisdiction will:

- (a) continue and strengthen gate-keeping arrangements established in the National Competition Policy (NCP) arrangements to prevent the introduction of unwarranted competition restrictions in new and amended legislation and regulations; and
- (b) complete outstanding priority legislation reviews from the current NCP Legislation Review Program in accordance with the NCP public benefit test.

Decision 1.3

Senior Officials are to review the Conduct Code Agreement with a view to making recommendations for streamlining and introducing greater certainty to the processes for appointments and amendments to Part IV of the *Trade Practices Act 1974* (TPA), while retaining a cooperative approach.

Energy

Decision 2.1

Governments will work collectively to strengthen the national energy market by recommitting to the COAG reforms currently being progressed by the Ministerial Council on Energy (MCE) and the timelines for their implementation as outlined in Appendix A.

Decision 2.2

Governments will improve the price signals for energy investors and customers by:

- (a) committing to the progressive roll out of electricity smart meters to allow the introduction of time of day pricing and to allow users to respond to these prices and reduce demand for peak power;
- (b) requesting the MCE to agree on common technical standards for smart meters and implement the roll out as may be practicable from 2007 in accordance with an implementation plan that has regard to costs and benefits and takes account of different market circumstances in each State and Territory; and
- (c) implementing a comprehensive and enhanced MCE work program, from 2006, to establish effective demand-side response mechanisms in the electricity market, including network owner incentives, effectively valuing demand-side responses, regulation and pricing of distributed and embedded generation, and end user education.

Decision 2.3

Governments will strengthen the national character of the electricity transmission system to support an efficient national energy market by:

- (a) agreeing to further develop the national electricity transmission grid in a manner that provides energy users with the most efficient, secure and sustainable supply of electricity from all available fuels and generation sources in the National Electricity Market;
- (b) establishing a truly national approach to the future development of the national electricity transmission grid by adopting suitable policy settings, governance and institutional arrangements and taking other actions necessary to improve the framework for planning, network investment decisions, enhancing transparency and independence and streamlining regulation; and
- (c) endorsing the current MCE transmission work program taking forward reforms on transmission pricing and revenues, regional structures, congestion management, and planning.

Decision 2.4

Governments reaffirmed their commitment to implement national energy market structures that foster competition by:

- (a) endorsing the ongoing structural separation of the competitive generation and retailing activities from the natural monopoly transmission functions in the National Energy Market to protect and promote the benefits of competition;
- (b) requesting the MCE to develop specific recommendations under the National Electricity Law to maintain such separation of generation and transmission activities in a form that complements the provisions of the TPA that prohibit the substantial lessening of competition;
- (c) considering the operation, and structure, of government-owned businesses with a view to ensuring that there is equivalence between government-owned and private sector businesses in terms of the policy, legal and market arrangements under which they operate; and
- (d) removing any barriers to the evolution of fully efficient financial markets affecting energy by:-
 - (i) fostering transparent and effective financial markets to support energy markets, and

- (ii) committing to maintain and increase reliance on market-based risk mitigation and hedging measures, and to remove barriers to full retail competition.

Decision 2.5

- (a) COAG will establish a high-level COAG Energy Reform Implementation Group, chaired by an eminent independent person and comprising industry experts and senior officials appointed on the basis of their expertise to develop detailed implementation arrangements for the further reforms to the energy market in Decision 2.3 and 2.4 above, drawing on expert studies that may be required; and
- (b) the Chair of the COAG Energy Reform Implementation Group will report to COAG before the end of 2006 with the Group's proposals for:-
 - (i) achieving a fully national transmission grid including the most suitable governance and transitional arrangements having regard to COAG's objective of achieving a truly national approach to the future development of the electricity grid, the legitimate commercial interests of asset owners, and the need to promote investment that supports the efficient provision of transmission services,
 - (ii) any measures that may be necessary to address structural issues affecting the ongoing competitiveness and efficiency of the electricity sector, and
 - (iii) any measures that may be necessary to ensuring there are transparent and effective financial markets to support energy markets.

Transport

Decision 3.1

- (a) COAG agreed to a Productivity Commission inquiry (with terms of reference at Appendix B) to be presented to COAG by end 2006 which will, *inter alia*:-
 - (i) identify the optimal methods and timeframes for introducing efficient road and rail freight infrastructure pricing in a manner that maximises net benefits to the community,
 - (ii) determine the full financial, economic, social and environmental costs of providing road and rail infrastructure,
 - (iii) identify other barriers to competition in road and rail transport, and
 - (iv) recognise transport operators and users and remote and rural communities will need sufficient time to transition and adjust to pricing arrangements.

Decision 3.2

- (a) Governments agree to a range of actions to harmonise and reform rail and road regulation (outlined in Appendix C) for implementation on specific timeframes within five years, including productivity enhancing reforms such as higher mass limits, improved and nationally-consistent road and rail safety regulation and performance-based standards for licensing innovative vehicles that do less road damage;
- (b) Senior Officials will work with the Australian Transport Council (ATC) and the National Transport Commission to develop by mid 2006 the specific performance indicators and milestones for the reform program referred to above for agreement by COAG;

- (c) COAG will consider the findings of the pricing review referred to in Recommendation 3.1 to guide implementation of the policy commitments in (a) above; and
- (d) the ATC will oversee implementation of these reforms and provide regular progress reports to COAG.

Decision 3.3

Governments will strengthen land transport investment appraisal approaches to ensure the best use of public investment by:

- (a) adopting ATC-endorsed national guidelines for evaluating new public road and rail infrastructure projects by December 2006; and
- (b) requesting the ATC to provide regular progress reports to COAG.

Decision 3.4

Governments commit to reduce current and projected urban transport congestion, within current jurisdictional responsibilities, by:

- (a) commissioning a Commonwealth-State review, in co-operation with local government, into the main causes, trends, impacts and options for managing the impact of urban transport congestion in Australia's major cities, focusing on national freight corridors, but also examining local networks only where they interact with, and impact on, national corridors (with terms of reference at Appendix D); and
- (b) based on the review's findings, considering further action at the first meeting of COAG in 2007.

Infrastructure Regulation

Governments signed the Competition and Infrastructure Reform Agreement embodying all governments' commitment to achieve a simpler and consistent national approach to the economic regulation of significant infrastructure and to improve the functioning of markets as per Appendix E.

REGULATION

Best practice regulation

Decision 5.1

Governments will establish and maintain effective arrangements at each level of government that maximise the efficiency of new and amended regulation and avoid unnecessary compliance costs and restrictions on competition by:

- (a) establishing and maintaining "gate keeping mechanisms" as part of the decision-making process to ensure that the regulatory impact of proposed regulatory instruments are made fully transparent to decision makers in advance of decisions being made and to the public as soon as possible;
- (b) improving the quality of regulation impact analysis through the use, where appropriate, of cost-benefit analysis;
- (c) better measurement of compliance costs flowing from new and amended regulation, such as through the use of the Commonwealth Office of Small Business' costing model;

- (d) broadening the scope of regulation impact analysis, where appropriate, to recognise the effect of regulation on individuals and the cumulative burden on business and, as part of the consideration of alternatives to new regulation, have regard to whether the existing regulatory regimes of other jurisdictions might offer a viable alternative; and
- (e) applying these arrangements to Ministerial Councils.

Decision 5.2

Each jurisdiction will review existing regulations with a view to encouraging competition and efficiency and streamlining and reducing the regulatory burden on business by:

- (a) initiating at least annual targeted reviews to reduce the burden of existing regulation in its own jurisdiction through a public inquiry and reporting process that provides opportunities for input from a range of stakeholders including business groups, with each review to identify priority areas where regulatory reform could provide significant gains to business and the community; and
- (b) acting on the recommendations of the reviews referred to above, and co-ordinating reform measures with other jurisdictions if appropriate.

Decision 5.3

- (a) Governments agree, in principle, to adopt a common framework for benchmarking, measuring and reporting on the regulatory burden across all levels of government, subject to governments considering the recommendations of the current Productivity Commission study on regulatory benchmarking and performance indicators; and
- (b) some jurisdictions may choose to set quantifiable targets for the reduction of "red tape" within their jurisdictions.

Decision 5.4

The annual reviews of the burden of existing regulations referred to in Decision 5.2 will be used to identify further reforms that enhance regulatory consistency across jurisdictions or reduce duplication and overlap in regulation and in the role and operation of regulatory bodies.

Decision 5.5

- (a) As a high priority, governments will together explore further measures to implement a nationally-consistent rail safety regulatory framework; and
- (b) COAG will request the Australian Transport Council (ATC) to recommend an approach for establishing a nationally-consistent approach to inter-state rail safety regulation, potentially including a single system of operator accreditation, regulatory oversight and rail regulator recruitment and training, and report to COAG by end 2006.

Decision 5.6

COAG will request:

- (a) the Australian Safety and Compensation Council (ASCC), as an immediate priority, to develop strategies to improve the development and uptake of national occupational health and safety (OHS) standards, with particular emphasis on the following:-
 - (i) reducing the time taken to develop national OHS standards,

- (ii) undertaking State/Territory consultation with local stakeholders in parallel with national consultation to inform the development of the national standard and ensure agreement to nationally-consistent arrangements, and
- (iii) agreeing specific time frames for implementation so that each jurisdiction will implement the standard or code within an agreed time frame;
- (b) the Workplace Relations Ministerial Council to identify priority areas in principal OHS Acts in each State and Territory that should be harmonised;
- (c) the Workplace Relations Ministerial Council to report back to COAG by end 2006 on recommended strategies for implementing the reforms outlined in (a) and (b) above, and thereafter provide six-monthly progress reports to COAG; and
- (d) that there be no reduction or compromise in standards for legitimate safety concerns in current OHS standards.

Decision 5.7

COAG will request the Ministerial Council on Consumer Affairs to:

- (a) develop a recommendation for introducing a national system of trade measurement that would rationalise the different regulatory regimes of the Commonwealth, States and Territories and streamline the present arrangements for cost recovery and the certification of trade measuring instruments; and
- (b) report back to COAG with its recommendations and a proposed timeline for implementation for COAG consideration before the end of 2006.

Decision 5.8

COAG will establish a ministerial taskforce, with each jurisdiction nominating one responsible Minister, to develop measures to achieve a streamlined and harmonised system of national chemicals and plastics regulation, and reporting progress to COAG by mid 2006.

Decision 5.9

COAG will request the Local Government and Planning Ministers' Council to:

- (a) recommend and implement strategies to encourage each jurisdiction to:-
 - (i) systematically review its local government development assessment legislation, policies and objectives to ensure that they remain relevant, effective, efficiently administered, and consistent across the jurisdiction, and
 - (ii) ensure that referrals are limited only to agencies with a statutory role relevant to the application and that referral agencies specify their requirements in advance and comply with clear response times;
- (b) facilitate trials of electronic processing of development applications and adoption through Electronic Development Assessment; and
- (c) report back to COAG on progress and recommended options for streamlining legislation by end 2006.

Decision 5.10

- (a) COAG noted the findings of the Productivity Commission research paper, *Reform of Building Regulation*;
- (b) governments committed to achieve a nationally-consistent Building Code of Australia based on minimum regulation and will formalise that commitment by signing the new inter-governmental agreement; and
- (c) COAG will request the Local Government and Planning Ministers Council, co-opting where necessary Ministers with responsibility for building regulation, to

report back by mid 2006 on the content and timetable for implementing further building regulation reforms including a nationally-consistent building code.

APPENDIX A

MINISTERIAL COUNCIL ON ENERGY REFORM AGENDA

Governments have agreed to implement significant energy market reforms under the auspices of the Ministerial Council on Energy (MCE). The MCE is bringing forward further initiatives for the consideration of COAG, including arrangements for the certification of energy access arrangements on a nationally consistent basis, time bound commitments to transfer retail and distribution regulation to a national framework and the phase out of retail price regulation where effective competition can be demonstrated. These new initiatives will be formalised in amendments to the Australian Energy Market Agreement 2004 and are included in this document on that basis. The current reform agenda broadly comprises the following key initiatives:

Governance and Institutions

- Implement a national legislative and regulatory framework for gas (*end 2006*).
- Establish a national energy access regime based on a certification model incorporating national arrangements (*end 2006*).
- Finalise and implement arrangements for merits review of decision making in the gas and electricity regulatory frameworks (*end 2006*).

Economic Regulation

- Establish a national distribution and retail framework (*1 January 2007*). Transfer distribution functions to the AER and AEMC (*1 January 2007*), other functions to be transferred (*1 January 2008*).

Retail Pricing

- A phase out of energy retail price regulation where effective competition can be demonstrated (*reviews commencing 1 January 2007*) and the process of responding to advice from the AEMC reviews will be agreed by the MCE by 1 July 2006.

Electricity Transmission

- Finalise and implement the initiatives set out in the MCE Statement on NEM Electricity Transmission of May 2005 covering regulation, planning, criteria for regional boundary changes and congestion management (*end 2006*).

User Participation

- Implement new interim consumer advocacy arrangements (*mid 2006*).
- Implement new long term consumer advocacy arrangements (*end 2006*).
- Consider demand side response options (*late 2006*).

Gas Market Development

- Finalise and implement response to the PC Review of the Gas Access Regime (*end 2006*).
- Policy decision on wholesale gas market arrangements, based on outcomes of the Gas Market Leaders Group development of a gas market development plan (*late 2006*).

- Implement a gas emergency response protocol (*early 2006*).

Emergency Fuel Management

- Endorse a liquid fuel emergency inter-governmental agreement (*early 2006*).
- Implement legislative amendments responding to the Review of the Liquid Fuel Emergency Act (*mid 2006*)

Energy Efficiency

- Implementation of the National Framework for Energy Efficiency (Stage 1) (*end 2007*).
- Consideration of the response to the Productivity Commission Inquiry on the Private Cost Effectiveness of Improving Energy Efficiency (*Mar 2006*).
- Consideration of the National Framework for Energy Efficiency (Stage 2) (*mid 2006*).

Renewable and Distributed Generation

- Issues paper on options available in the National Electricity Market to maximise the benefits of distributed generation (*early 2006*).
- Development of a code of practice for embedded generation (*end 2006*).
- Development of policies to facilitate the increased penetration of wind energy while maintaining system security and reliability (*end 2006*).
- Development of a wind forecasting model (*late 2006 / early 2007*).

APPENDIX B

**REVIEW OF ECONOMIC COSTS OF FREIGHT INFRASTRUCTURE
AND EFFICIENT APPROACHES TO TRANSPORT PRICING**

TERMS OF REFERENCE

1. The purpose of the review is to assist COAG to implement efficient pricing of road and rail freight infrastructure through consistent and competitively neutral pricing regimes, in a manner that optimises efficiency and productivity in the freight transport task and maximises net benefits to the community.
2. The review will estimate the full financial costs of providing and maintaining freight transport infrastructure on major road and rail networks. It should be based on the principle that prices charged should reflect all costs in each mode and that there are benefits in a national pricing regime. In estimating these financial costs, the review will take account of the extensive research and studies on this issue, including by the National Transport Commission and the Bureau of Transport and Regional Economics.
3. The review also will assess the full economic and social costs of providing and maintaining road and rail freight infrastructure, if it judges this to be feasible. Such costs would include environmental and safety impacts of different transport modes. The review would assess existing studies of these economic and social costs and comment on the strengths and weaknesses of methodologies used. The review should also assess what information or future research could improve the quality of the estimates.
4. The review will investigate options for transport pricing reform, including moving to mass, distance and location charging of freight transport. In considering distance based charging regimes the review will:
 - a) consider principles and practical options for the structure of the different pricing regimes;
 - b) estimate the impact of charging regime options, including on transport operators and users and specific locations;
 - c) consider options for implementing any new pricing regime, including the practical costs and benefits of alternative technology options; and
 - d) provide advice on options for the design of and timeframes for implementing mass distance location based charging regimes, taking into account adjustment issues. The review will not address fiscal implications which will be assessed by governments following the review's completion.
5. The review will also identify any other competition, regulatory and access constraints on the economically efficient pricing and operation of road and rail freight transport and related infrastructure networks and assets, including access to and competition between inter-modal facilities, and

make recommendations on the options for removing these impediments and increasing efficiency.

6. The review will be undertaken by the Productivity Commission and is to be presented to COAG by December 2006. The review should publish a draft report and consult widely with stakeholders on its contents and recommendations.

APPENDIX C

**WORK SCHEDULE FOR HARMONISING AND REFORMING
ROAD AND RAIL REGULATIONS**

Regulatory reform will be most beneficial if a more flexible regulatory approach focussed on outcomes and managing risks is established. This would see rules that:

- deliver productivity outcomes that do not compromise safety and environment outcomes or put infrastructure at risk;
- differ on different parts of the network, depending on the capacity of the infrastructure and the risk environment;
- specify safety, environment and infrastructure protection outcomes; and
- are monitored directly, using information technology.

A national system is crucial to Australia's economic and social well being. It is essential that decisions made in one jurisdiction should be mutually recognised elsewhere. There should be an integrated, national and efficient decision-making framework to gain access to the national road or rail network.

Transport systems should operate smoothly across modes (particularly road and rail). Consequently, standards that determine what access is allowed on different parts of the transport infrastructure should be aligned. As the road mode has greater potential flexibility, this means that more flexible rules governing access to the road network should be established, that will allow freight carried by rail to be seamlessly picked up and dropped off by road transport operations.

The essential elements of these outcomes are included on the existing road and rail reform agenda, and must be delivered if they are to ultimately establish new, more effective regulatory systems for road and rail transport. However, this commitment must be continued and strengthened if any significant progress is to occur.

The following schedule of road and rail regulatory reforms is grouped under three headings:

1. reforms which have already been agreed by the Australian Transport Council;
2. new work on regulation harmonisation reforms; and
3. new work on transport regulation reforms.

The ATC will oversee the implementation of these reforms and provide regular progress reports to COAG.

1. Existing Road and Rail Regulation Harmonisation Program

The Prime Minister has written to Premiers and First Ministers proposing, as part of the "end August" set of actions in the 3 June COAG Communiqué, that ATC be required to report to COAG by early 2006 on progress against this existing road and rail reform agenda; progress against target dates for agreed reforms; and a timetable for implementing model rail safety legislation and regulations. At its meeting on

18 October 2005, the ATC endorsed this proposed road and regulation reform agenda. The ATC also directed senior transport officials to develop appropriate performance indicators and milestones against this agenda, for reporting to COAG by March 2006.

A review of the Federal Interstate Registration Scheme (FIRS) is not included in the NTC work program because the Commonwealth has already committed to undertake the review in cooperation with the states. FIRS was originally introduced to cover registration of heavy vehicles travelling inter-state but ATC has now achieved a national uniform heavy vehicle charging regime.

MID 2006

Road transport compliance and enforcement

Implementation of previously agreed national policy on heavy vehicle accreditation, ie Mass Management and Maintenance Management modules of the National Heavy Vehicle Accreditation Scheme.

Performance-based standards (PBS)

Review of selected standards and decision-making processes, ie Interim Regulation Panel.

PBS is a nationally agreed process for assessing the access of innovative vehicles to the road system and has the potential to increase productivity by encouraging the use of over-dimension or over mass vehicles where it is safe to do so and where their use will not cause unacceptable damage to road infrastructure.

Over the longer term, PBS is seen as the key productivity reform that has the potential to replace prescriptive rulemaking, as it would provide a regulatory framework for operator-driven flexibility in vehicle design and operation, subject to agreed safety and asset standards. PBS is seen as an important element in a regulatory approach to road transport which will enable continuous productivity gains and technological improvement, whilst meeting reasonable safety, road asset protection and environmental standards.

END 2006

Model rail safety legislation

Enactment and commencement of agreed, new model legislative provisions including model regulations by all jurisdictions by 31 December 2006.

National package on heavy vehicle driver fatigue

ATC is expected to vote on a new heavy vehicle driver fatigue package in 2006.

PROGRESSIVELY FROM END 2006

Intelligent Access Project

Developed by Austroads, in conjunction with the NTC, this scheme will allow monitoring of operating conditions (location, time-of-day, speed) through GPS by certified service providers, with exception (breach) reports supplied to road agencies. Its purpose is not currently related to pricing but to the monitoring of operations.

However, depending on the success of its implementation with participating road agencies and businesses, it could potentially provide a basis and a model for moving to more refined road pricing arrangements.

MID 2007

Road transport fatigue

- Implementation in participating jurisdictions within 12 months of ATC agreement. Implementation to include all three options (Standard Hours, Basic Fatigue Management and Advanced Fatigue Management) and a national decision-making process for AFM accreditation. It is noted that some jurisdictions may decide to retain fatigue regulation wholly within OHS regulation. These jurisdictions would be required to demonstrate regulation equivalent to agreed national road transport regulation.
- Audit of rest areas against national guidelines.

Road transport compliance and enforcement

Implementation of mechanisms for exchange of heavy vehicle compliance and enforcement data between jurisdictions. This date includes breach/sanctions information and enforcement intelligence.

END 2007

Performance-based standards

Implementation of PBS regulation within 6 months of ATC agreement to regulatory package (being considered by ATC in May 2007), including binding and effective national decision-making processes.

END 2008

Full implementation of higher mass limits (HML) for vehicles with road friendly suspensions

Jurisdictions should work to increase the network available for access by heavy vehicles operating at HML. This would involve a commitment, by end 2008, to examine and if necessary upgrade sections of highway, bridges and appropriate arterial and local roads linking key distribution points to the AusLink National Network.

Progress in implementation of performance-based standards

ATC review to ensure all jurisdictions have implemented agreed PBS reforms outlined under 'Mid 2006' and 'End 2007' actions above.

Road transport fatigue

Provision of rest areas to nationally agreed standards.

2. Possible Future Work on Road Regulation Harmonisation

This program is not currently on the ATC agenda but could be considered as priority areas for further productivity reform.

EARLY 2006

Examination of the general mass limits applying to heavy vehicle operations (refers to safety, not charging, regulations)

This would assess whether further small increments in additional mass could be considered. Implementation of mass adjustments under the compliance and enforcement reform could see some loss of measurement tolerance, resulting in industry not being able to safely load to levels approaching legal mass limits in some circumstances.

Adoption of more general use of quad axle groups in semi-trailers and B-doubles

Permitting more general use of such groups under the on-going PBS reform program outlined above would result in more productive vehicles being utilised in the freight task. The NTC could be asked to develop a policy proposal on this matter in advance of the implementation of performance based standards.

Development of a network for B-triples

This would involve the identification of a suitable road network that is capable of handling the large and heavier B-triples which will improve the safety and efficiency of freight transport. It would require the appropriate compliance and enforcement regimes to be in place before access to B-triples was granted.

Both of the above reforms are capable of being implemented as elements of the PBS program.

MID 2006

Completion of review of steer axle mass limits for some combinations

Permitted mass on the steer axle is lower in Australia than in Europe or the US. This divergence may increase as recent and anticipated decisions on environmental and safety standards may impact on front axle mass. However, emerging evidence suggests that the road wear impact of front axle mass has been under-estimated. ATC has approved the development of a package involving increased front axle mass with safety improvements (front underrun protection systems and cabin strength). Depending on the estimated road wear impacts, it may be necessary to impose additional charges for vehicles utilising higher front axle mass. This proposal would be subject to a Regulatory Impact Statement.

Road transport compliance and enforcement

Agreement to national processes for monitoring of and reporting on heavy vehicle compliance with road transport regulatory requirements

END 2006

Treatment of overloaded axles

The NTC has been provided with funding to determine the treatment that should apply to an overloaded axle within a vehicle or vehicle combination that otherwise is mass compliant.

MID 2007

Road transport compliance and enforcement

- Implementation of national monitoring of and reporting on heavy vehicle requirements with road transport regulatory requirements, in accordance with the agreed process
- Agreement on a national heavy vehicle enforcement strategy

MID 2008

Road transport compliance and enforcement

Implementation of agreed national heavy vehicle enforcement strategy.

3. Possible Future Work on Road Transport Regulation

This program is not currently on the ATC agenda but could be considered as priority areas for further productivity reform.

Access to under-utilised infrastructure

- Road infrastructure is far from homogeneous. Road and bridge characteristics (strength, condition, geometry, etc) vary depending on a range of factors. A combination of prescriptive vehicle standards intended for application through all or most of the road system results in standards which do not allow maximum productivity as they are designed to protect critical points of the infrastructure. The result is spare/unused capacity in much of the infrastructure.
- The NTC will need to work to develop more flexible and objective criteria and systems which might allow greater access to infrastructure. Provision of access to the full capacity of the infrastructure would require compliance conditions which provide a high degree of confidence that operations are restricted to suitable segments of infrastructure, possibly combined with pricing mechanisms which are more closely linked to asset use. Success in this area will require effective linking of compliance and enforcement, performance-based standards including developing mass distance location pricing, flexible mass limits, infrastructure standards and Intelligent Access monitoring.

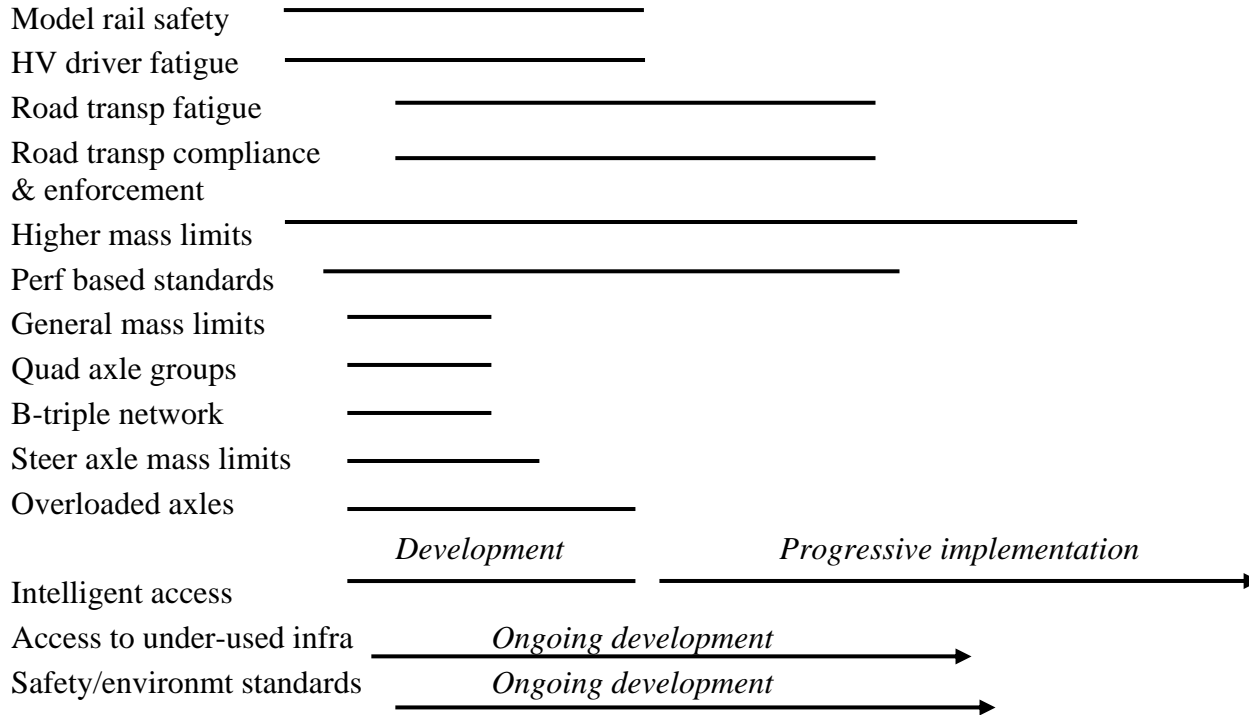
Safety and environmental standards

- There are strong community expectations of high safety and environmental standards in heavy vehicle operation. Surveys support anecdotal evidence of community concerns over sharing roads with heavy vehicles and requirements to maintain or enhance residential amenity. Successfully addressing these concerns would help improve community acceptance of freight traffic and overcomes community opposition to the anticipated growth in the freight task.

REGULATION REFORM TIMELINES – AGREED AND PROPOSED FUTURE WORK

12/2005 06/2006 12/2006 06/2007 12/2007 06/2008 12/2008 06/2009 12/2009 06/2010 12/2010 06/2011 12/2011

Specific reforms



12/2005 06/2006 12/2006 06/2007 12/2007 06/2008 12/2008 06/2009 12/2009 06/2010 12/2010 06/2011 12/2011

REVIEW OF URBAN CONGESTION TRENDS, IMPACTS AND SOLUTIONS

TERMS OF REFERENCE

States and Territories, as the principal level of government involved with planning, developing and managing urban transport systems, are undertaking numerous initiatives and some studies to combat urban congestion (see Annex A). The Australian Government is constructively involved with jurisdictions in tackling infrastructure bottlenecks on urban sections of the AusLink national network. All levels of government are also cooperating in the Standing Committee on Transport (SCOT) Urban Congestion Management Working Group, due to report to the Australian Transport Council (ATC) in November 2005. The review should build on this work. The proposed COAG review would complement and extend these initiatives with the aim of enhancing national productivity growth and achievement of social objectives within current jurisdictional responsibilities.

The joint review will examine the major causes of Australia's urban congestion, including traffic growth and management, to develop a coherent and cooperative framework for governments to address this problem for COAG's consideration.

The review will make findings on improving the economic performance of national urban corridors and improving productivity outcomes from urban transport. While the focus is on national corridors, the review will need to examine local networks where they interact with, and impact on, national corridors.

1. The review will examine the main current and emerging causes, trends and impacts of urban traffic growth and congestion due to freight and passenger transport.
2. The review will not duplicate and where appropriate will draw on existing studies. The review also will identify any deficiencies in information and make recommendations regarding the collection and sharing of nationally consistent data.
3. The review will examine and assess the key characteristics and impact of successful urban congestion management approaches and initiatives in Australia and overseas. This examination may include, but not be limited to, improved infrastructure planning, regulation, travel behaviour change incentives including charges, levies and taxes, infrastructure and service pricing, land use planning and institutional coordination across tiers of government. In particular, the review will focus on:
 - a) better integration of national corridors and adjoining local networks and systems;
 - b) better interaction and management of passenger and freight systems/flows;
 - c) better management of local, cross-urban and through-urban flows;
 - d) improved implementation of integrated land use and transport planning, to protect performance of national corridors and improve productivity over the long-term; and
 - e) improved options for demand management and other travel behaviour change initiatives.

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4. The review will be oversighted by a joint Commonwealth, state and local government steering committee.
5. The review should be completed for COAG consideration by December 2006.

**Competition and Infrastructure Reform Agreement
10 February 2006**

WHEREAS the Council of Australian Governments at its meeting in Canberra on 10 February 2006 agreed to a programme for the implementation of further National Competition Policy reforms;

AND WHEREAS the Parties intend to achieve a simpler and consistent national approach to the economic regulation of significant infrastructure;

THE COMMONWEALTH OF AUSTRALIA

THE STATE OF NEW SOUTH WALES

THE STATE OF VICTORIA

THE STATE OF QUEENSLAND

THE STATE OF SOUTH AUSTRALIA

THE STATE OF WESTERN AUSTRALIA

THE STATE OF TASMANIA

THE AUSTRALIAN CAPITAL TERRITORY, AND

THE NORTHERN TERRITORY OF AUSTRALIA

agree as follows:

Interpretation

- 1.1 For the purposes of this agreement significant infrastructure means infrastructure, including ports and export related infrastructure, that falls within the scope of subclause 6(3)(a) of the Competition Principles Agreement or Part IIIA of the *Trade Practices Act 1974*.
- 1.2 Nothing in this agreement requires existing access regimes certified in accordance with Part IIIA of the *Trade Practices Act 1974* to be resubmitted for assessment.
- 1.3 The access regimes for electricity and gas which are to be developed and certified in accordance with the Australian Energy Market Agreement and the access regime for the Tarcoola to Darwin Railway will be taken to satisfy the requirements of clause 2 of this agreement.
- 1.4 For the purposes of clause 6.1 government business enterprises are enterprises that are incorporated under State, Territory or Commonwealth legislation and are classified as Public Financial Corporations or Public Non-Financial Corporations, excluding central borrowing authorities, under the Government Financial Statistics Classifications.

- 1.5 For the purposes of this agreement the term "regulator" also includes dispute resolution bodies.
- 1.6 This agreement is to be read in conjunction with, and does not replace, the Competition Principles Agreement 1995 and the *Trade Practices Act 1974*.

Simpler and consistent regulation of significant infrastructure

- 2.1 The Parties agree to establish a simpler and consistent national approach to economic regulation of significant infrastructure.
- 2.2 The Parties agree that, in the first instance, terms and conditions for third party access to services provided by means of significant infrastructure facilities should be on the basis of terms and conditions commercially agreed between the access seeker and the operator of the infrastructure.
- 2.3 The introduction of price monitoring for services provided by means of significant infrastructure facilities should be considered, where this would improve the level of price transparency, as a first step where price regulation may be required, or when scaling back from more intrusive regulation.
- 2.4 All third party access regimes for services provided by means of significant infrastructure facilities will include the following consistent regulatory principles.
 - a. Objects clauses that promote the economically efficient use of, operation and investment in, significant infrastructure thereby promoting effective competition in upstream or downstream markets.
 - b. Regulated access prices should be set so as to:
 - i. generate expected revenue for a regulated service or services that is at least sufficient to meet the efficient costs of providing access to the regulated service or services and include a return on investment commensurate with the regulatory and commercial risks involved;
 - ii. allow multi-part pricing and price discrimination when it aids efficiency;
 - iii. not allow a vertically integrated access provider to set terms and conditions that discriminate in favour of its downstream operations, except to the extent that the cost of providing access to other operators is higher; and
 - iv. provide incentives to reduce costs or otherwise improve productivity.
 - c. Where merits review of regulatory decisions is provided, the review will be limited to the information submitted to the regulator.
- 2.5 The Parties agree to amend clause 6 of the Competition Principles Agreement to include subclause 2.4 above.
- 2.6 The Parties agree to introduce requirements that regulators will be bound to make regulatory decisions under an access regime within six months, provided that the regulator has been given sufficient information.
 - a. Regulators will have the discretion to determine when the six month time limit is suspended:
 - i. Grounds for commencing time limits include when the regulator considers that sufficient information has been provided to enable the regulatory process to commence; and

- ii. Grounds for suspending time limits include requests for further information from significant infrastructure facility service providers, provided these are on reasonable grounds, and consultation periods during which the regulator seeks submissions from third parties or the community.
 - b. Where the service provider of a significant infrastructure facility has not provided the requested information, a regulator will be permitted to make a determination on the information before it in order to satisfy six month time limits.
- 2.7 The principles in clause 2.4 and 2.6 will be incorporated in existing access regimes for services provided by means of significant infrastructure facilities and Part IIIA of the *Trade Practices Act 1974* as soon as practicable or as they are reviewed, provided that they are included in such regimes no later than the end of 2010.
- 2.8 Commonwealth and State officials will oversight the implementation of the principles in clauses 2.4 and 2.6, including developing a streamlined process and appropriate administrative arrangements for the certification of access regimes, and may develop further proposals for consideration by COAG for the adoption of appropriate additional regulatory principles that may contribute to a simpler and consistent national approach to regulation.
- 2.9 The Parties agree that, to advance the objective of a simpler and consistent national approach to regulation, all state and territory access regimes for services provided by means of significant infrastructure facilities will be submitted for certification in accordance with the *Trade Practices Act 1974* and the Competition Principles Agreement.
 - a. All new third party access regimes will be submitted for certification as soon as practicable.
 - b. Third party access regimes existing at the time this agreement commences will be submitted for certification as soon as practicable, or as they are reviewed, provided they are submitted for certification no later than the end of 2010.
 - c. The certification of access regimes under this clause is subject to Parties agreeing a streamlined certification process and appropriate administrative arrangements to be developed as part of the mechanism established under clause 2.8.

Rail freight infrastructure

- 3.1. The Parties agree to implement a simpler and consistent national system of rail access regulation, using the Australian Rail Track Corporation access undertaking to the Australian Competition and Consumer Commission as a model, to apply to the following agreed nationally significant railways:
 - a. Interstate rail track from Perth to Brisbane, currently managed by the Australian Rail Track Corporation and other parties, subject to the outcome of commercial negotiations; and
 - b. Major intra-state freight corridors on an agreed case by case basis depending on the costs and benefits of inclusion under a national regime.
- 3.2. The Parties agree to develop an agreed approach to the application of the Australian Rail Track Corporation access undertaking model including pricing and access mechanisms that will be appropriate if vertically integrated operators retain control of relevant sections of track.
- 3.3. The Parties agree that state based rail access regimes governing other significant export related rail infrastructure facilities will be submitted for certification as required by clause 2.9.

3.4. This agreement does not require any change to passenger priority policies.

Port competition and regulation

4.1. The Parties agree that:

- a. ports should only be subject to economic regulation where a clear need for it exists in the promotion of competition in upstream or downstream markets or to prevent the misuse of market power; and
- b. where a Party decides that economic regulation of significant ports is warranted, it should conform to a consistent national approach based on the following principles:
 - i. wherever possible, third party access to services provided by means of ports and related infrastructure facilities should be on the basis of terms and conditions agreed between the operator of the facility and the person seeking access;
 - ii. where possible, commercial outcomes should be promoted by establishing competitive market frameworks that allow competition in and entry to port and related infrastructure services, including stevedoring, in preference to economic regulation;
 - iii. where regulatory oversight of prices is warranted pursuant to clause 2.3, this should be undertaken by an independent body which publishes relevant information; and
 - iv. where access regimes are required, and to maximise consistency, those regimes should be certified in accordance with the *Trade Practices Act 1974* and the Competition Principles Agreement.

4.2. The Parties agree to allow for competition in the provision of port and related infrastructure facility services, unless a transparent public review by the relevant Party indicates that the benefits of restricting competition outweigh the costs to the community, including through the implementation of the following:

- a. port planning should, consistent with the efficient use of port infrastructure, facilitate the entry of new suppliers of port and related infrastructure services;
- b. where third party access to port facilities is provided, that access should be provided on a competitively neutral basis;
- c. Commercial charters for port authorities should include guidance to seek a commercial return while not exploiting monopoly powers; and
- d. any conflicts of interest between port owners, operators or service providers as a result of vertically integrated structures should be addressed by the relevant Party on a case by case basis with a view to facilitating competition.

4.3. Each Party will review the regulation of ports and port authority, handling and storage facility operations at significant ports within its jurisdiction to ensure they are consistent with the principles set out in clauses 4.1 and 4.2.

- a. Significant ports include:
 - i. Major capital city ports and port facilities at these ports;
 - ii. Major bulk commodity export ports and port facilities, except those considered part of integrated production processes; and
 - iii. Major regional ports catering to agricultural and other exports.

Promotion of competitive infrastructure arrangements through competitive tendering

- 5.1. In some circumstances competitive infrastructure market structures are not feasible because the infrastructure exhibits natural monopoly characteristics. Where governments are considering the development of such monopoly infrastructure, they can initiate competition for the market through competitive tendering that promotes efficient service delivery. This allows the market to establish the terms and conditions for the supply of infrastructure services, reducing the need for subsequent regulation.
- 5.2. The Parties agree to consider the use of competitive tendering to establish the terms and conditions for the supply of significant new services provided by government owned monopoly infrastructure.
- 5.3. The Commonwealth has introduced amendments to Part IIIA of the *Trade Practices Act 1974* to provide that declaration will not apply to government owned infrastructure developed by way of a competitive tender approved by the Australian Competition and Consumer Commission.
- 5.4. For the purposes of clause 5.3, the Parties agree to work together to develop a consistent set of criteria for access related elements of tenders for the provision of nationally significant infrastructure facility services.

Competitive neutrality of government business enterprises

- 6.1 The Parties agree to enhance the application of competitive neutrality principles to government business enterprises engaged in significant business activities in competition with the private sector:

Objectives

- a. That the enterprise has clear commercial objectives.
- b. That any non commercial objectives or obligations established for the enterprise are clearly specified and publicly reported.
- c. That enterprises do not exercise regulatory or planning approval functions in circumstances in which they compete with private sector enterprises.

Governance

- d. That the responsibilities of the governing board of the enterprise and the performance measures against which the board will be held accountable are published.
- e. That the governing board is appointed on the basis of particular skills needed by the board.
- f. That having received strategic guidance from the government about the achievement of its objectives, the enterprise has operational autonomy in the day to day management of its affairs.
- g. That the dividend policy applicable to the enterprise should be clearly and publicly specified.
- h. That any payments to the government as shareholder or for the purposes of competitive neutrality, such as taxes, tax equivalent payments, special dividends, capital repayments, are identified in a transparent manner.

Reporting

- i. That at least annually the enterprise will report publicly on its commercial performance and on its performance of any non commercial activities.
- j. That any directions given to the enterprise by the government are published.

- k. That where the legislation establishing an enterprise derogates from competitive neutrality the derogation has been published.

New Parties and Withdrawal of Parties

- 7.1 A jurisdiction that is not a Party at the date of this Agreement commences operation may become a Party by sending written notice to all the Parties.
- 7.2 A Party may withdraw from this Agreement by sending written notice to all other Parties. The withdrawal will become effective six months after the notice was sent.
- 7.3 If a Party withdraws from this Agreement, this Agreement will continue in force in respect of the remaining Parties.

Review of this Agreement

- 8.1 Once this Agreement has operated for five years, the Parties will review its operation and terms.

Commencement of this Agreement

- 9.1 This Agreement commences once the Commonwealth and at least four other jurisdictions have executed it.